

PRISONER'S CIVIL RIGHTS COMPLAINT (Rev. 05/2015)

Plaintiff's Amended Complaint  
 IN THE UNITED STATES DISTRICT COURT  
 FOR THE Southern DISTRICT OF TEXAS  
Corpus Christi DIVISION

United States Courts  
 Southern District of Texas  
 Fil FD

SEP 21 2018

Fred G. MARTINEZ # 2061834  
 Plaintiff's Name and ID Number

David J. Bradley, Clerk of Court

TDCJ- STILES UNIT  
 Place of Confinement

CASE NO. 2:18-CV-158  
 (Clerk will assign the number)

v. (1). NUECES COUNTY Sheriff's Office/Jail, (2) Sheriff Jim KAELIN, "JURY"  
 (3). OFC. PERALES, (4). OFC. Zapata, (5). All other Booking Officers Assigned  
 Defendant's Name and Address from 3-23-16 to 5-26-16, (6) OFC. ???  
to include all un deputized employees; 901 LEOPARD ST, Corpus Christi, TX 78401.  
 Defendant's Name and Address (7). TEXAS Commission on Jail Standards,  
 (8). Inspector Jackie Banningfield and (9). Asst Director Shannon J. Herklitz;  
 Defendant's Name and Address P.O. Box 12985, Austin, TX 78711.  
 (DO NOT USE "ET AL.")  
All Defendants ARE BEING SUED INDIVIDUALLY AND IN THEIR OFFICIAL CAPACITY.  
 INSTRUCTIONS - READ CAREFULLY

## NOTICE:

Your complaint is subject to dismissal unless it conforms to these instructions and this form.

1. To start an action you must file an original and one copy of your complaint with the court. You should keep a copy of the complaint for your own records.
2. Your complaint must be legibly handwritten, in ink, or typewritten. You, the plaintiff, must sign and declare under penalty of perjury that the facts are correct. If you need additional space, **DO NOT USE THE REVERSE SIDE OR BACKSIDE OF ANY PAGE.** ATTACH AN ADDITIONAL BLANK PAGE AND WRITE ON IT.
3. You must file a separate complaint for each claim you have unless the various claims are all related to the same incident or issue or are all against the same defendant, Rule 18, Federal Rules of Civil Procedure. Make a short and plain statement of your claim, Rule 8, Federal Rules of Civil Procedure.
4. When these forms are completed, mail the original and one copy to the clerk of the United States district court for the appropriate district of Texas in the division where one or more named defendants are located, or where the incident giving rise to your claim for relief occurred. If you are confined in the Texas Department of Criminal Justice, Correctional Institutions Division (TDCJ-CID), the list labeled as "VENUE LIST" is posted in your unit law library. It is a list of the Texas prison units indicating the appropriate district court, the division and an address list of the divisional clerks.

**FILING FEE AND IN FORMA PAUPERIS**

1. In order for your complaint to be filed, it must be accompanied by the filing fee of **\$350.00**.
2. If you do not have the necessary funds to pay the filing fee in full at this time, you may request permission to proceed *in forma pauperis*. In this event you must complete the application to proceed *in forma pauperis* (IFP), setting forth the information to establish your inability to prepay the fees and costs or give security therefore. You must also include a six (6) month history of your Inmate Trust Account. You can acquire the application to proceed IFP and appropriate Inmate Account Certificate from the law library at your prison unit.
3. 28 U.S.C. 1915, as amended by the Prison Litigation Reform Act of 1995 (PLRA), provides, "...if a prisoner brings a civil action or files and appeal *in forma pauperis*, the prisoner shall be required to pay the full amount of a filing fee." Thus, the Court is required to assess and, when funds exist, collect, the entire filing fee or an initial partial filing fee and monthly installments until the entire amount of the filing fee has been paid by the prisoner. If you submit the application to proceed *in forma pauperis*, the Court will apply 28 U.S.C. 1915 and, if appropriate, assess and collect the entire filing fee or an initial partial filing fee, then monthly installments from your Inmate Account, until the entire **\$350** filing fee has been paid.
4. If you intend to seek *in forma pauperis* status, then do not send your complaint without an Application to Proceed IFP, and the Certificate of Inmate Trust Account. Complete all the essential paperwork before submitting it to the Court.

**CHANGE OF ADDRESS**

It is your responsibility to inform the Court of any change of address and its effective date. Such notice should be marked "NOTICE TO THE COURT OF CHANGE OF ADDRESS" and shall not include any motions(s) for any other relief. Failure to file a NOTICE TO THE COURT OF CHANGE OF ADDRESS may result in the dismissal of your complaint pursuant to Rule 41(b), Federal Rules of Civil Procedures.

**I. PREVIOUS LAWSUITS:**

- A. Have you filed any other lawsuits in the state or federal court relating to imprisonment? ✓ YES ~~NO~~ NO
- B. If your answer to "A" is yes, describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, giving the same information.)
  1. Approximate date of filing lawsuit: Sept. 4, 2018
  2. Parties to previous lawsuit:
 

Plaintiff(s): Fred G. Martinez

Defendant(s): THE STATE OF TEXAS
  3. Court (If federal, name the district; if state, name the county) U.S. Dist- Southern
  4. Docket Number: 2:18-CV-00272
  5. Name of judge to whom case was assigned: Judge Hilda G. Tagle
  6. Disposition: (Was the case dismissed, appealed, still pending?)  
pending
  7. Approximate date of disposition: pending

II. PLACE OF PRESENT CONFINEMENT: TDCJ- Stiles

III. EXHAUSTION OF GRIEVANCE PROCEDURES:

Have you exhausted both steps of the grievance procedure in this institution? \_\_\_\_\_ YES ☒ NO

Attach a copy of the Step 2 grievance with the response supplied by the prison system.

IV. PARTIES TO THE SUIT:

A. Name of address of plaintiff: Fred G. Martinez # 2061834- Stiles,  
3060 FM 3514, BEAUMONT, TX 77705

B. Full name of each defendant, his official position, his place of employment, and his full mailing address.

Defendants

- (1). NUECES COUNTY SHERIFF'S OFFICE/JAIL, (2). Sheriff Jim Kaelin,
- (3). Ofc. Perez; (Hispanic, tall, Husky, light complected, with a RAINBOW colored tattoo on forearm),
- (4). Ofc. Zapata; (Hispanic, short, small built, medium complected, known as a former cheerleader).
- (5). All other Booking Officers, under Sheriff's direction, on assignment from March 23, 2016 to May 26, 2016, to include undeputized employees.

Place of Employment: NUECES County Sheriff's Office/Jail.

Address: 901 Leopard St., Corpus Christi, TX 78401.

(Same Address for all Defendants listed above).

Plaintiff claims: All Defendants listed above hold equal responsibility for the following harms that occurred from March 23, 2016 to May 26, 2016;

As Plaintiff was; (1) illegally held in an UNAUTHORIZED, inadequate jail cell, (2) denied reasonable adequate sanitation, (3) denied reasonable adequate food, (4) denied minimal life necessities, and (5) denied all forms of communications and access to courts.

Additional Defendants: (6) Ofc. ??? (Nueces Cty. Jail address),

(7) TEX. Commission on Jail Standards, (8) INSO. Jackie Benningfield and

(9) Asst. Dir. Shannon J. Heeklotz.

Place of Employment: The Commission on Jail Standards, (7-9).

Address for Defendants (7-9): P.O. Box 12985, Austin, TX 78711.

Plaintiff additionally suffered UNFAIR administration, from Defendants (6-9), when he prompted The Commission on Jail Standards to properly investigate, as these defendants botched the investigation.

All Defendants acted under the same color of state law.

**V. STATEMENT OF CLAIM:**

State here in a short and plain statement the facts of your case, that is, what happened, where did it happen, when did it happen, and who was involved. Describe how each defendant is involved. You need not give any legal argument or cite any cases of statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach extra pages if necessary, but remember that the complaint must be stated briefly and concisely. IF YOU VIOLATE THIS RULE, THE COURT MAY STRIKE YOUR COMPLAINT.

SEE: Attachment #1

**VI. RELIEF:** State briefly exactly what you want the court to do for you. Make no legal arguments. Cite not cases or statutes.

DECLARATORY Judgement, PRELIMINARY AND PERMANENT Injunction,  
Nominal, Compensatory and punitive damages.

**VII. GENERAL BACKGROUND INFORMATION:**

A. State, in complete form, all names you have ever used or been known by including any and all aliases:

FRED G. MARTINEZ, JR.

B. List all TDCJ-ID identification numbers you have ever been assigned and all other state or federal prison or FBI numbers ever assigned to you, if know to you.

TDCJ# 2061834

**VIII. SANCTIONS:**

A. Have you been sanctioned by any court as a result of any lawsuit you have filed? ☐ YES ☒ NO

B. If your answer is "yes", give the following information for every lawsuit in which sanctions were imposed. (If more than one, use another piece of paper and answer the same questions.)

1. Court that imposed sanctions (If federal, give district and division): \_\_\_\_\_

2. Case Number: \_\_\_\_\_

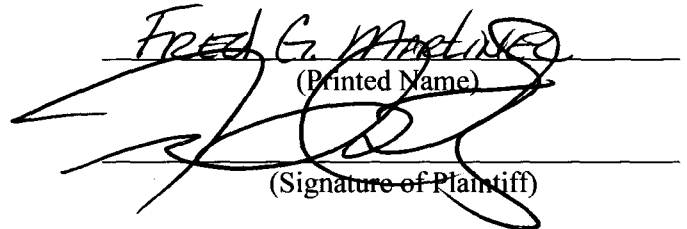
3. Approximate date sanctions were imposed: \_\_\_\_\_

4. Have the sanctions been lifted or otherwise satisfied? ☐ YES ☐ NO

- C. Has any court ever warned or notified you that sanctions could be imposed? \_\_\_\_ YES ☒ NO
- D. If your answer is "yes", give the following information for every lawsuit in which warning was imposed. (If more than one, use another piece of paper and answer the same questions.)

1. Court that imposed warning (if federal, give the district and division): N/A
2. Case number: \_\_\_\_\_
3. Approximate date warning were imposed: \_\_\_\_\_

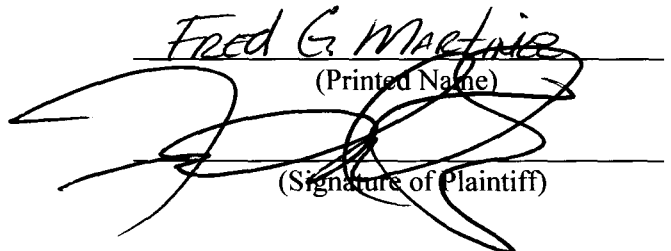
Executed on: 9-14-18  
(Date)

Fred G. Martin  
(Printed Name)  
  
(Signature of Plaintiff)

### PLAINTIFF'S DECLARATIONS

1. I declare under penalty of perjury all facts presented in this complaint and attachment thereto are true and correct.
2. I understand if I am released or transferred, it is my responsibility to keep the Court informed of my current mailing address and failure to do so may result in the dismissal of this lawsuit.
3. I understand that I must exhaust all available administrative remedies prior to filing this lawsuit.
4. I understand I am prohibited from bringing an *in forma pauperis* lawsuit if I have brought three or more civil actions in a Court of the United States while incarcerated or detained in any facility, which lawsuits are dismissed on the ground they were frivolous, malicious, or failed to state a claim upon which relief may be granted, unless I am under imminent danger or serious physical injury.
5. I understand even if I am allowed to proceed without prepayment of costs, I am responsible for the entire **\$350** filing fee and costs assessed by the Court, which shall be deducted in accordance with the law from the inmate account by my custodian until the filing fee is paid.

Signed this 14<sup>th</sup> day of September, 20 18.  
(Day) (Month) (Year)

Fred G. Martin  
(Printed Name)  
  
(Signature of Plaintiff)

**WARNING: The Plaintiff is hereby advised any false or deliberately misleading information provided in response to the following questions will result in the imposition of sanctions. The sanctions the Court may impose include, but are not limbed to monetary sanctions and/or the dismissal of this action with prejudice.**